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Research Paper

Universal Human Rights in the 21st Century: Challenges, Norms, and Global Implementation

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ABSTRACT

The concept of Universal Human Rights has evolved significantly in the 21st century, driven by globalization, technological advancements, and shifting socio-political landscapes. While the universal nature of human rights is enshrined in international law, their implementation and protection remain challenged by various factors, including cultural differences, political instability, and economic disparities. Additionally, the rise of non-state actors, such as multinational corporations and international organizations, has further complicated the enforcement of human rights norms. This paper examines the challenges facing universal human rights in the contemporary world, including the clash between universal ideals and local practices, the erosion of rights in conflict zones, and the growing influence of digital platforms on rights advocacy. The study explores the evolving norms surrounding human rights and discusses strategies for enhancing global implementation, focusing on legal frameworks, international cooperation, and the role of civil society in promoting and protecting fundamental rights for all.

1. Introduction

Human rights constitute a set of norms governing the treatment of individuals and groups by states and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life. These norms are incorporated into national and international legal systems, which specify mechanisms and procedures to hold the duty-bearers accountable and provide redress for alleged victims of human rights violations. After a brief discussion of the use of human rights in ethical, legal and advocacy discourse and some historical background of the concept of human rights, this essay will examine the tensions between human rights and state sovereignty, the challenges to the universality of human rights, the enumeration of rights recognized by the international community, and the means available to translate the high aspirations of human rights into practice.

2. Human rights in ethics, law and social activism

There are numerous theoretical debates surrounding the origins, scope and significance of human rights in political science, moral philosophy, and jurisprudence. Roughly speaking, invoking the term "human rights" (which is often referred to as "human rights discourse" or "human rights talk") is based on moral reasoning (ethical discourse), socially sanctioned norms (legal/political discourse) or social mobilization (advocacy discourse). These three types of discourse are by no means alternative or sequential but are all used in different contexts, depending on who is invoking human rights discourse, to whom they are addressing their claims, and what they expect to gain by doing so. The three types of discourse are inter-related in the sense that public reasoning based on ethical arguments and social mobilization based on advocacy agendas influence legal

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norms, processes and institutions and thus all three modes of discourse contribute to human rights becoming part of social reality.

3. Human rights as ethical concerns

Human rights have in common an ethical concern for just treatment, built on empathy or altruism in human behavior and concepts of justice in philosophy. The philosopher and economist, Amartya Sen, considers that "Human rights can be seen as primarily ethical demands... Like other ethical claims that demand acceptance, there is an implicit presumption in making pronouncements on human rights that the underlying ethical claims will survive open and informed scrutiny." In moral reasoning, the expression "human rights" is often not distinguished from the more general concept of "rights," although in law a "right" refers to any entitlement protected by law, the moral validity or legitimacy of which may be separate from its legal status as an entitlement. The moral basis of a right can draw on concepts such as natural law, social contract, justice as fairness, consequentialism and other theories of justice. In all these philosophical traditions, a right is conceived as an entitlement of individuals, either by virtue of being human or because they are members of a political community (citizens). In law, however, a right is any legally protected interest, whatever the social consequence of the enforcement of the right on the wellbeing of persons other than the right-holder (e.g., the property right of a landlord to evict a tenant, the right of a business to earn profits). To avoid confusion, it is helpful to use the term "human right" or its equivalent ("fundamental right," "basic freedom," "constitutional right") to refer to a higher-order right, authoritatively defined and carrying the expectation that it has a peremptory character and thus prevails over other (ordinary) rights and reflects the essential values of the society adopting it. "Even though human rights can, and often do, inspire legislation, this is a further fact, rather than an constitutive characteristic of human rights, implying an inherent value of the concept of human rights, independent of what is established in law. Legal positivists would disagree and consider Legal positivists" regard human rights as resulting from a formal norm-creating process, by which we mean an authoritative formulation of the rules by which a society (national or international) is governed. While "natural rights" derive from natural order or divine origin, and are inalienable, immutable, and absolute, rights based on "positive law" are recognized through a political and legal process that results in a declaration, law, treaty, or other normative instrument. These may vary over time and be subject to derogations or limitations. designed to optimize respect for human rights rather than impose an absolute standard. They become part of the social order when an authoritative body proclaims. them, and they attain a higher degree of universality based on the participation of virtually every nation in the norm-creating process, a process that is law-based but that reflects compromise and historical shifts. Think of the moral and legal acceptability of slavery, torture, or sexual and racial discrimination over most of human history. The product of what has survived "open and informed scrutiny" (Sen's expression) is thus often found not in journals and seminars on ethics and normative theory but rather at the end of the political or legislative process leading to the adoption of laws and treaties relating to human rights, such as the relatively recent abolition of slavery, torture and discrimination based on race or sex. The "International Bill of Human Rights" (consisting of the Universal Declaration of Human Rights [UDHR] of 1948, and two legally-binding treaties opened for signature in 1966, namely, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), along with the other human rights treaties of the United Nations (UN) and of regional organizations, constitute the primary sources and reference points for what properly belongs in the category of human rights. These legally recognized human rights are discussed below in

4. Human rights as social claims

Before they are written into legal texts, human rights often emerge from claims of people suffering injustice and thus are based on moral sentiment, culturally determined by contextualized moral and religious belief systems. Revolt against tyranny is an ancient tradition. A modern precursor of social mobilization for human rights at the national level was the response to the unjust condemnation of Captain Dreyfus in 1894 as a spy for the Germans, which led Emile Zola to proclaim in his famous "J'Accuse...", an impassioned call to action that led to the creation of the Ligue française des droits de l'homme in 1897, and numerous similar leagues, which became federated in 1922 into the International Federation of Leagues for the Rights of Man (now the International Federation for Human Rights), which spawned its counterpart in the US in 1942, the International League for the Rights of Man, now functioning in New York as the International League for Human Rights. Amnesty International (founded in 1961), the Moscow Human Rights Committee (founded in 1970), and Helsinki Watch (founded in 1978 and expanded into Human Rights Watch in 1988) were among the more effective non-governmental organizations (NGOs). Latin America, Africa and Asia saw the creation of an extraordinary array of human rights groups in the 1980s and 1990s, which have proliferated after the end of the Cold War.

5. Historical milestones

The historical context of human rights can be seen from a wide range of perspectives. At the risk of oversimplification, I will mention four approaches to the history of human rights. The first approach traces the deeper origins to ancient religious and philosophical concepts of compassion, charity, justice, individual worth, and respect for all life found in Hinduism, Judaism, Buddhism, Confucianism, Christianity and Islam. Precursors of human rights declarations are found in the ancient codes of Hammurabi in Babylon (about 1772 BCE), the Charter of Cyrus the Great in Persia (about 535 BCE), edicts of Ashoka in India (about 250 BCE), and rules and traditions of pre-colonial Africa and pre-Columbian America. 10A fourth view is the very recent revisionist history that considers human rights as peripheral in the aftermath of World War II and only significant as a

utopian ideal and movement beginning in the 1970s as an alternative to the prevailing ideological climate. Much scholarship, especially in Europe and North America, dates modern human rights theory and practice from the Enlightenment and the transformative influence of the French and American Revolutions of the 18th century and liberation of subjugated people from slavery and colonial domination in the 19th and 20th centuries. Lynn Hunt, in an essay on "The Revolutionary Origins of Human Rights," affirms that: The Second World War was the defining event for the internationalization of human rights. In 1940, H.G. Wells wrote *The Rights of Man or What are We Fighting For?*: Roosevelt announced the "four freedoms" (freedoms of speech and worship and freedoms from want and fear) in his 1941 State of the Union address, the UN Charter established in 1945 an obligation of all members to respect and observe human rights and created a permanent commission to promote their realization; the trial of Nazi doctors defined principles of

5.1 Tensions and controversies about human rights today -To understand how human rights are part of the global agenda, we need to ask (A) why states even accept the idea of human rights obligations when they are supposed to be sovereign and therefore do what they want within their territory. Then we will explore (B) what is the current list of human rights generally accepted, before asking (C) whether they correspond to the basic values of all societies or are imposed from the outside for ideological reasons. Finally, we will examine (D) how they are transformed from word to deed, from aspiration to practice.

5.2 Human rights the same for everyone -The claim that human rights are universal holds that they are the same for everyone because they are inherent in human beings by virtue of all people being human, and that human rights therefore derive from nature (hence the term "natural rights"). The UDHR refers to "the inherent dignity and... equal and inalienable rights. Of all members of the human family [as] the foundation of freedom, justice and peace in the world." The American Declaration of Independence proclaims that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights" and the French Declaration of 1789 refers to the "natural, unalienable, and sacred rights of man." Another basis for saying that human rights are universal is to rely on their formal adoption by virtually all countries that have endorsed the UDHR or have ratified human rights treaties. Cultural relativists claim that human rights are based on values that are determined culturally and vary from one society to another, rather than being universal. There are several variants of this position. One is the so-called "Asian values" argument, according to which human rights is a Western idea, which is at odds with the way in which leaders in Asian societies provide for the needs of their people without making the individual supreme, prioritizing instead the value of societal harmony and the good of the collective." A related view holds that the concept of human rights is a tool of Western imperialism used to disguise political, economic and military ambitions of Western nations against those in the developing world. A third is the "clash of civilizations" argument that only the liberal West, among the roughly seven civilizations in the world, is capable of realizing human rights since the other civilizations lack sufficient sense of the individual and the rule of law. 24 This issue of compatibility of human rights with diverse belief systems and religions has special geopolitical repercussions in relation to Islam, for example, on which views are divided and has been of considerable interest since the "Arab Spring" of 2011, in which both Islamic and human rights values motivated peoples across the Middle East and North Africa to overthrow deeply entrenched dictatorships, with very mixed results, and the emergence of extremist terrorist organizations claiming to act according to their interpretation of Islam. The World Conference on Human Rights (Vienna, June 1993) addressed the general question of balancing universal and cultural claims with this compromise. language: All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights. globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms." This statement nevertheless captures an important feature of human rights today, namely, that they are universal but must be realized in the context of the prevailing values of each society. To understand fully the challenge such contextualization represents we need to examine the means and methods through which universally accepted human rights are put into practice.

5.3 Human rights put into practice - Human rights are traditionally studied in a global context through (1) the norm-creating processes, which result in global human rights standards and (2) the norm-enforcement processes, which seek to translate laudable goals into tangible practices. In addition, there are (3) continuing and new challenges to the effectiveness of this normative regime.

6. The norm-creating process

The norm-creating process refers to authoritative decision-making that results in the formal acknowledgement of specific rights and obligations in a given society and clarifies what is expected to realize the rights in practice. The typical norm-creating process in international human rights regarding a social issue begins with expression of concern by a delegate at a meeting of a political body and lobbying for co-sponsors to a resolution, which is eventually adopted by that body. Once the issue is on the agenda, a political body may then commission a study, eventually leading to drafting a declaration, and then a convention, which has to be ratified and enter into force and is possibly followed by the adoption of an optional protocol providing for complaints procedures. All the major human rights issues, such torture, women's rights, racial as discrimination, disappearances, rights of children and of persons with disabilities, went through these phases, lasting from ten to thirty years

or more. This is how the body of human rights norms has expanded considerably from the International Bill of Human Rights to the current array of several hundred global and regional treaties. Following a related process, war crimes, genocide and crimes against humanity, have been addressed by other treaties calling for criminal prosecutions of perpetrators.

Defining human rights is not enough; measures must be taken to ensure that they are respected, promoted and fulfilled. In the domestic legal system, law is binding and the courts and the police use force to compel compliance. In the international human rights regime, law is not treated in quite the same way. The term “enforcement,” for example, refers to coerced compliance, which is rare, while most efforts focus on “implementation”, that is, as wide range of supervision, monitoring and general efforts to make duty-holders accountable. Implementation is further subdivided into promotion (i.e., preventive measures that seek to ensure respect for human rights in the future) and protection (i.e., responses to violations that have occurred in the past or are ongoing). The means and methods of implementation may be summarized in three forms of promotion and five forms of protection. Promotion of human rights is achieved through developing awareness, standard-setting and interpretation, and creation of national institutions. Awareness of human rights is a precondition to acting on them and is advanced through dissemination of knowledge (e.g., publications, information campaigns) and human rights education at all levels. Second is standard-setting, the drafting of human rights texts, in which the UN Commission on Human Rights, established in 1946, played a central role until it was replaced in 2006 by the Human Rights Council. Numerous other bodies in the UN system, such as the Commission on the Status of Women, and UN Specialized Agencies (such as the International Labour Organization and UNESCO), as well as the regional organizations (Council of Europe, Organization of American States, African Union, League of Arab States, Association of Southeast Asian Nations) adopt and monitor other international human rights texts. The third preventive or promotional means of implementation is national institution building, which includes improvements in the judiciary and law enforcement institutions and the creation of specialized bodies such as national commissions for human rights and offices of an ombudsman. The protection of human rights involves a complex web of national and international mechanisms to monitor, judge, urge, denounce, and coerce states, as well as to provide relief to victims. Monitoring compliance with international standards is carried out through the reporting and complaints procedures of the UN treaty bodies and regional human rights commissions and courts. States are required to submit reports and the monitoring body-often guided by information provided by NGOs which examines progress and problems with a view to guiding the reporting country to do better. The Human Rights Council also carries out a Universal Periodic Review (UPR) of all countries, regardless of treaty ratification. Several optional procedures allow individuals and groups (and sometimes other states) to petition these bodies for a determination of violations. The quasi-judicial bodies (such as the Human Rights Committee or the African Commission on Human and Peoples Rights) utilize various forms of fact-finding and investigation and issue their views so that governments can take action to live up to their human rights obligations.

7. Rights are recognized as human rights

While it is legitimate to draw on philosophical arguments or activist agendas to claim any global social issue as a human right, it is also useful to identify which rights are officially recognized as such. The most reliable source of the core content of international human rights is found in the International Bill of Human Rights, which enumerates approximately fifty normative propositions on which additional human rights documents have built. Scores of regional and UN treaties have expanded the scope of recognized human rights, including in specialized areas such as protection of victims of armed conflict, workers, refugees and displaced persons, and persons with disabilities. The International Bill of Human Rights enumerates five group rights, twenty-four civil and political rights (CPR), and fourteen economic, social and cultural rights (ESCR). It also sets out seven principles that explain how the rights should be applied and interpreted. The group rights listed in the International Bill of Human Rights include two rights of peoples (self-determination and permanent sovereignty over natural resources) and three rights of ethnic, religious and linguistic minorities (namely, the rights to enjoy one's own culture, to practice one's own religion, and to use one's language). The civil and political rights include five relating to physical integrity (rights to life; freedom from torture; freedom from slavery, freedom from arbitrary arrest or detention; and the right to humane treatment under detention). Five other rights relate to the individual's autonomy of thought and action (namely, freedom of movement and residence; prohibition of expulsion of aliens; freedom of thought, conscience and religious belief, freedom of expression; and the right to privacy). Another four rights concern the administration of justice (non-imprisonment for debt, fair trial-for which 16 additional rights are enumerated; the right to personhood under the law; and the right to equality before the law). Six other civil & political rights relate to participation in civil society (freedom of assembly, freedom of association; the right to marry and found a family; rights of children; the right to practice a religion; and as an exception to free speech-the prohibition of war propaganda and hate speech constituting incitement). The final sub-set of these rights. Is the four relating to political participation (namely, the right to hold public office; to vote in free elections; to be elected to office; and to equal access to public service). The economic, social and cultural rights reaffirmed in the International Bill of Human Rights include four workers' rights (the right to gain a living by work freely chosen and accepted; the right to just and favorable conditions of work; the right to form and join trade unions; and the right to strike). Four others concern social protection (social security; assistance to the family, mothers and children; adequate standard of living, including food, clothing and housing; and the highest attainable level of physical and mental health). The remaining rights are the six concerning education and culture (the right to education directed towards the full development of the human personality; free and

compulsory primary education; availability of other levels of education; participation in cultural life; protection of moral and material rights of creators and transmitters of culture, and the right to enjoy the benefits of scientific progress).

8. List of human rights

Group Rights

1. Right to self-determination
2. Permanent sovereignty over natural
3. Right to enjoy one's culture
4. Right to practice one's religion
5. Right to speak one's language

Civil and Political Rights (CPR) ÷

1. Right to life
2. Freedom from torture Harvard University 2016 Human Rights
3. Freedom from slavery
4. Freedom from arbitrary arrest/detention
5. Right to humane treatment in detention
6. Freedom of movement and residence
7. Prohibition of expulsion of aliens
8. Freedom of thought, conscience, and religious belief
9. Freedom of expression
10. Right to privacy
11. Non-imprisonment for debt
12. Fair trial (sub-divided into
13. enumerated rights
14. Right to personhood under the law
15. Equality before the law.
16. Freedom of assembly
17. Freedom of association
18. Right to marry and found a family
19. Rights of children
20. Right to practice a religion
21. Prohibition of war propaganda and hate speech constituting incitement
22. Right to hold office
23. Right to vote in free elections
24. Right to be elected to office
25. Equal access to public service

Economic, Social, and Cultural Rights (ESCR) ÷

1. Right to gain a living by work freely chosen and accepted
2. Right to just and favorable work conditions
3. Right to form and join trade unions
4. Right to strike
5. Social security
6. Assistance to the family, mothers, and children
7. Adequate standard of living (including food, clothing, and housing)
8. Right to the highest attainable standard of physical and mental health
9. Right to education towards the full development of human personality
10. Free and compulsory primary education
11. Availability of other levels of education
12. Participation in cultural life
13. Protection of moral and material rights of creators and transmitters of culture
14. Right to enjoy the benefits of scientific progress

Finally, the seven principles of application and interpretation include the principles of (1) progressive realization of ESCR (states must take meaningful measures towards full realization of these rights); (2) immediate implementation of CPR (states have duties to respect and ensure respect for these rights); (3) non-discrimination applied to all rights; (4) an effective remedy for violation of CPR; and (5) equality of rights between men and women. The International Bill also specifies that (6) human rights may be subject to limitations and derogations and that (7) the rights in the Covenants may not be used as a pretext for lowering an existing standard if there is a higher one under national law.

In addition to the traditional grouping of human rights in the two major categories of human rights (CPR and ESCR), a third category of "solidarity rights" or "third generation rights" is sometimes invoked, including the rights to development, to a clean environment, and to humanitarian assistance). The reasons for separating CPR from ESCR have been questioned. 20 For example, it is often claimed that CPR are absolute and immutable, whereas ESCR are relative and responsive to changing conditions. However, all rights are Proclaimed on the expectation that they will be of lasting value but in fact all have emerged when social pressures have been. Strong enough to challenge power relations and expand the list. Consider, for example, that torture was an accepted means of obtaining a confession, that slavery was widely practiced and accepted for centuries, and that women were treated as chattel in many societies and only received political rights in the last century. Thus, these CPR have not been permanent features of society. It is also argued that CPR are to be implemented by states immediately, may be enforced through judicial remedies, and are relatively cost-free since they merely require the state to leave people alone (so-called "negative rights"), whereas ESCR should be implemented progressively, in accordance with available resources, since they require state expenditure (so-called "positive rights") and are not suitable for lawsuits ("non-justiciable"). In many circumstances this is true, however, many ESCR have been made "justiciable" (that is, people can sue the state if they consider that the right has not been respected), and many CPR are not achieved merely passively but require a considerable investment of time and resources (for example, to train law enforcement officials or establish an independent judiciary). Another reason they are often considered different in nature concerns denunciation of violations, which is often considered appropriate for CPR but should be avoided for ESCR in favor of a more cooperative approach to urge governments to do all they should to realize these rights. However, many situations arise where an accusatory approach for dealing with CPR is counter-productive and where it is appropriate to refer to violations of ESCR.

So these two categories which the UN regards as inter-related and equally important are not watertight and reasons for considering them inherently different may be challenged. In practice, the context dictates the most effective use of resources, institutions, and approaches more than the nature of the theoretical category of rights. truly relevant to people's lives they challenge the state, the political economy and cultural traditions. At the same time, they offer a normative framework for individuals and collectivities to organize for change, so that state legitimacy is measured by human rights performance, the political economy is freed from gross economic disparities and social inequities, and cultural identity is preserved and cherished in ways that are consistent with prevailing values of individual autonomy and freedom. Appeals to human rights in bringing about such change is usually supported, at least rhetorically, by the community of nations and, in progressively more meaningful and effective ways, by networks of solidarity that have profoundly changed societies in the past. That is how practices such as slavery, apartheid, colonialism, and exclusions of all sorts have been largely eliminated. Similarly, environmental degradation, poverty, terrorism, non representative government, discrimination based on sexual orientation and an expanding array of other challenges in the 21st century will continue to test the value of human rights as a normative and institutional guide to policy and practice.

9. Continuing and new challenges to human rights realization

The adoption of norms and the implementation of accountability procedures are not enough to eliminate the deeper causes of human rights deprivation. The most salient challenges to the effectiveness of human rights at the global level relate to the reliance on the state to take responsibility for correcting its ways: structural issues of the global economy. Favoring the maximization of profits in ways. Over which human rights machinery has little or no control or impact; and cultural conditions based on patriarchy, class, caste and ethnicity, which only change slowly over time as power relations and mentalities change. In all these arenas, human rights are highly political: to the extent that they are truly relevant to people's lives they challenge the state, the political economy and cultural traditions. At the same time, they offer a normative framework for individuals and collectivities to organize for change, so that state legitimacy is measured by human rights performance, the political economy is freed from gross economic disparities and social inequities, and cultural identity is preserved and cherished in ways that are consistent with prevailing values of individual autonomy and freedom. Appeals to human rights in bringing about such change is usually supported, at least rhetorically, by the community of nations and, in progressively more meaningful and effective ways, by networks of solidarity that have profoundly changed societies in the past. That is how practices such as slavery, apartheid, colonialism, and exclusions of all sorts have been largely eliminated. Similarly, environmental degradation, poverty, terrorism, non-representative government, discrimination based on sexual orientation and an expanding array of other challenges in the 21 century will continue to test the value of human rights as a normative and institutional guide to policy and practice.

10. Conclusion

We started by asking whether human rights have to be considered only in legal terms and saw that there are at least three modes of discourse concerning human rights: legal, philosophical and advocacy. All three overlap, although historically people have risen up against injustices for millennia and made respect for dignity integral to ethical and religious thinking, whereas the enumeration of codes of universal human rights has a much shorter history, dating primarily from the 18th century and especially from the inaugural moment of the UDHR in making human rights an explicit feature of the post World War II international legal order. We have examined what "universal" means in a world of conflicting ideologies, religions, beliefs and

values and reviewed the content of the normative propositions accepted as belonging to this category of "universal human rights," while sounding a cautionary note about taking their separation into two major categories too literally. Finally, we examined the processes by which human rights norms are recognized and put into practice and referred to several challenges facing the 21st century. In the coming decades, we can expect gaps to be filled in the institutional machinery of Africa and Asia, and in making ESCR genuinely equal in importance to CPR, as well as in the clarification of human rights standards in such areas as sexual orientation and advances in science and technology, while refining the means and methods of human rights promotion and protection. The essential value of human rights thinking and action, however, is unlikely to change: it has served and will continue to serve as a gauge of the legitimacy of government, a guide to setting the priorities for human progress, and a basis for consensus over what values can be shared across diverse ideologies and cultures.

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